

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

DISTRICT :

WRIT PETITION NO.7780 OF 2005

Office Notes, Office Memoranda
of Coram, appearances, Court's
orders or directions and
Registrar's orders

Court's or Judge's
orders

Mr.R.B.Parab for the Petitioner.

CORAM : S.J.VAZIFDAR, J.
DATED : 16TH JANUARY, 2007

P.C:

Rule, returnable forthwith and
heard.

2. By an order dated 13.12.2006
Dr.S.Radhakrishnan, J. placed the
matter for final hearing at the
admission stage. The Respondents are
absent despite notice. By the
impugned order, the Petitioner's
application for amendment was
rejected.

3. As far as the deletion of a

portion of the written statement is concerned, a the order warrants no interference. The Petitioner is at liberty to either explain the admission or to challenge the order in that regard from the final decree, if necessary.

4. The impugned order however also rejects the Petitioner's application to amend the written statement by inserting paragraph 13A (translation whereof is at page 46 of the plaint). This amendment merely seeks to rely upon a will dated 30.2.1999 and to make certain submissions based thereon. The will was referred to by Respondent No.5, who was not originally a party to the suit. The written statement of Respondent No.5 is dated 9.6.2005. The Petitioner's written statement was filed on 11.10.2002.

5. Though belated, in my view, the amendment ought to be allowed as the

same will be necessary to effectively decide all the disputes to the suit.

6. In the circumstances, the impugned order is set aside only to the extent of permitting the proposed amendment contained in paragraph 3 of the application for amendment (Exhibit "E") to the plaint.

7. Rule is accordingly made absolute.